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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,811	10/18/2005	Tibor George Csicsatka	PU030124	7798

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

EXAMINER	
MCCORD, PAUL C	

ART UNIT	PAPER NUMBER
2614	

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04/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/553,811	CSICSATKA ET AL.	
	Examiner	Art Unit	
	PAUL MCCORD	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2011*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 7-9, 15, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt (US Patent 6987221) further in view of Barbara et al. (US Patent 5926789 hereinafter Bar).

5. Regarding claim 1, 8, 15

Platt teaches:

A method and system for compiling a playlist of digital audio data files using a digital audio data player (Platt: through user interface of Fig 4), the method comprising the steps of:

enabling a user to select a set of digital audio data files for potential inclusion in the playlist via a user input device associated with the digital audio data player (Platt: Column 6, lines 2-25; Fig 4: selection of an album or plurality of tracks from media library **410**);

playing an audio clip from each one of the user- selected set of digital audio data files via an audio output device associated with the digital audio data player (Platt: Col 6, l. 60-67; Fig 4; operation of preview button **440**)

detecting whether a user input is received via the user input device while each one of the audio clips is being played (Platt: Col 6, l. 40-46; Fig 4: user operation of add button **450** during preview); and

including identifying data for the digital audio data file associated with a currently playing audio clip in the playlist in response to detecting the user input while the currently playing audio clip is being played (Platt: Col 5, l. 57-67: metadata included with track added into playlist upon operation of add button by user).

Platt suggests but does not explicitly teach automatic playback of the user selected set of digital audio files in sequence.

In a related field of endeavor Bar teaches:

A method of compiling a list of digital audio data files using a digital audio data player (Bar: Abstract: Column 6, lines 53-60) for automatically playing sequentially, an audio clip from each one of a set of user-selected digital audio data files via an audio output device associated with the digital audio data player (Bar: Col 3, l. 34, 35, Col 4, l. 63-65; Fig 3, 5: a user navigates to a directory of hyperlinked audio comprising previews

of audio tracks which are automatically played sequentially). Bar also teaches detecting operation on a user input during playback (Bar: Col 6, l. 1-14) and the inclusion of identifying data for the digital audio data (Bar: Col 6, l. 53-60; Col 9, l. 15-25)

It would have been obvious to one of ordinary skill in the art at the time of the invention to create playlists by the operation of an interface such as that taught or suggested by Platt and to playback media in sequence as taught or suggested by Bar. The average skilled practitioner would have been motivated to utilize a known technique such as sequential playback of media to improve or expand the interface of Platt as taught or suggested by Bar for the purpose of exploring a large library of media or verifying the acceptability of media automatically included in a playlist by adding or removing media from the list or library during preview. The average skilled practitioner would have expected such a combination to yield predictable results.

6. Regarding claim 7, 9, 16

Platt in view of Bar teaches or suggests a controller allowing inclusion of identifying data to a user selectable list of digitally encoded audio data files of a plurality of playlists of digitally encoded audio data files. (Platt: Col 7, l. 37-50; Fig 4: save button **470** causes the current playlist to be saved; a playlist can be saved and opened)

7. Claims 2-5, 10-13, 17-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt in view of Bar as applied to claims 1, 8, 15 above and further in view of Heo (US Patent 7046588.)

8. Regarding claim 2-5, 10-13, 17-20

Platt teaches that an audio data file can contain an ID3 tag for associating various metadata with an audio file. (Platt: Col 4, l. 24-37) ID3 metadata is well known to include user definable metadata for sorting and organizing media files such as genre, artist, title, etc.

Heo teaches a method and apparatus for reproducing portions of an audio selection or selection comprising wherein each audio clip is taken from a predetermined portion of its associated audio data file that is selectable by the user, or wherein each audio clip is taken from a portion of its associated audio data file, (Col 4, l. 38-46), . (Col 4, l. 38-46) Users can designate a desired portion or duration of a set of audio files to function as a clip or highlight thereby predetermining a portion of data that will be reproduced. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow user designation of a highlight or clip as disclosed by Heo in the Platt in view of Bar method of assembling a playlist. It would have been further obvious to store said designating information in an ID3 tag or associate said designating information with mood, genre, tempo or any other associated metadata. The average skilled practitioner would have been motivated to utilize the known techniques taught by Heo to improve a similar system for browsing media as taught or suggested by Platt in view of Bar. The average skilled practitioner would have expected such a combination to yield predictable results.

9. Claims 6, 14, 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt in view of Bar as applied to claims 1, 8, 15 above and further in view of Novelli et al. (US PGPub 2003/0144918.)

10. Regarding claim 6, 14, 21

Platt in view of Bar does not explicitly teach allowing a music file to continue playing until a user selects to add or skip the associated audio data file to a playlist.

In a related field of endeavor Novelli teaches a music marking system for electronically notating music selections. (Novelli: Abstract) Novelli discloses that the optimum time for a user to interact with a media file is during reproduction (Novelli: section [0004], [0041], [0065].) Novelli further discloses storage of interaction reference information during playback of a media file. It would have been obvious to one of ordinary skill in the art at the time of the invention to operate the Platt disclosed "ADD" button during playback of a media file as taught by Novelli, thereby indicating preference on the part of the user to include a media item in the Platt in view of Bar playlist. The average skilled practitioner would have expected such a combination to yield predictable results.

Response to Arguments

11. Applicant's arguments with respect to claims 1, 8, 15 have been considered but are not persuasive.

Applicant asserts that the prior art references taken together fail to suggest the limitations of Claim 1, 8, 15. In support Applicant states that the disclosure of Platt "in fact does not disclose or suggest the feature of adding a song to a playlist in response to user input while a currently playing audio clip is being played." In support Applicant calls attention to certain aspects of Platt, particularly, applicant alleges "no connection, either explicit or implied, between

the operation of the preview button and add button. That is, Platt says nothing regarding the use of the add button 450 during the playback of the preview." Applicant reasons that this lack of connection along with Platt's frequent reference to the automatic generation of playlists amounts to a "teaching away," from a suggestion of the recited subject matter of claims 1, 8, 15.

Examiner respectfully disagrees. Platt nowhere discloses the inactivation or "graying out" of certain functionalities of the interface of Figure 4. In fact, Platt discloses an invention functional to "facilitate organization and access to media items." (Platt: Column 2, lines 10-46) comprising a sample user interface (Platt: Fig 4) to be used in a computer environment such as that of Figure 15. Applicant's assertion as particular truth what such an interface and computer does or does not suggest is merely a supposed truth driven by motive. The teaching of plural features in a user interface certainly suggests the harnessing of these capabilities to a common end; allowing a user to experience media suited to the user's tastes. Examiner holds that these operations may be considered operative in tandem. The connection between these operations is explicitly suggested by the presence of these features in the interface disclosed in Figure 4. As Platt nowhere explicitly discloses rendering the add button inoperative during the playback of a preview its usage during preview must be considered as a manner by which the interface functions to allow a user to explore and quantifying desired media within a large library of media.

Applicant further asserts: "Nowhere does Barbara teach or suggest providing automatic playback of the user selected set of digital audio files in sequence, and in particular, in the context of selecting digital audio files for inclusion in a playlist."

Examiner again respectfully disagrees. An interface such as that of Platt Figure 4 suggests sequential playback of selected media, particularly in the absence of a "Random" or "Shuffle" functionality. That is, we're a user to select "Album 1," in the absence of the invocation of a random function one of average skill would expect the tracks to be delivered in sequence (i.e. 1, 2, 3…) This suggestion becomes more explicitly taught in view of Barbara. Barbara discloses a system for navigating though media libraries across a wide network such as the internet. (Barbara: Abstract) Upon selection of a particular directory, Barbara presents the user with a list of available media in sequence (Barbara: Fig 3, Col 5, l. 1-27: a first through k-th link is presented) functional to allow a user to navigate in the direction o f a preferred media Barbara also discloses operation of the interface during playback of media (Barbara: Col 6, l. 1-15). Barbara presents these selections audibly in keeping with the manner in which Platt presents a preview. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to include audible presentation of a list of selected media by means of a preview mode such as that suggested by Platt for at least the purpose of allowing a user to selectively browse within large libraries of media and build playlists of preferred media. Such a combination does not ignore the teachings and suggestions of Platt but rather adapts Platt's purposes of allowing a user to organize, categorize and maintain large amounts of media (Platt: Col 1, l. 25-28) in a manner consistent with those teachings and obvious to one of ordinary skill in the art. The above cited combination would enable a motivated user to forage within large databases of media and to verify the automatic methods of playlist generation which Platt delineates. As such applicant's arguments are not persuasive and the claim not allowable.

Applicant makes similar unpersuasive arguments in regard to claims 2-6, 10-14, 17-21 as the rejection over Platt in view of Barbara is not persuasively traversed by the above arguments.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL MCCORD whose telephone number is (571)270-3701. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (571)272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. M./
Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614